
Costs Decision

Site visit made on 31 July 2017

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2017

Costs application in relation to Appeal Ref: APP/M5450/W/17/3171440 42 Harrow View, Harrow HA1 1RQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Seamus Quinn for a partial award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for the demolition of two existing Garages and the proposed extension of a 2 storey building containing 2 no Apartments.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. This partial application for costs focuses on the Council's second reason for refusal given on its Decision Notice, which concerned the effects of the proposed development on a cypress tree subject to a Tree Preservation Order (TPO). The application is made on substantive grounds, the applicant alleging firstly, that the Council failed to produce evidence to substantiate the reason for refusal; and secondly, that it made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The submitted "PROPOSED PLANS + ELEVATIONS: Proposed Block Roof Plan" drawing¹ shows two separate gardens for the proposed apartments; and a substantial portion of the corner of the one annotated as "APT 2 Proposed Garden" is shown in close proximity to the protected tree. Moreover, the plan appears to show a gate in the boundary of this garden close to the tree.
5. I note that elsewhere on the plan the site's boundaries are annotated, and that there is no such annotation relating to the proposed gardens. I am also aware of the details of fencing given in the relevant part of the application form. However, these matters taken together, do not establish conclusively that the boundaries shown around "APT 2 Proposed Garden" would not be finished in

¹ Drwg no. 201, rev. no. P.01

fencing, or other similar treatment and the apparent gate drawn within the boundary further enforces the impression that some boundary treatments are indeed proposed there. Moreover, the boundary of the proposed garden is within an 'area of protection' required for the Cypress identified within the applicant's Design and Access Statement. Thus the Council acted reasonably in concluding that some boundary treatment was proposed and that this could cause adverse impacts to the adjacent protected tree.

6. Accordingly, I consider that, given the ambiguities of the plan, the TPO status of the cypress, and lack of substantive evidence to demonstrate that any additional boundary treatments would avoid harmful impacts to its health, the Council did not fail to produce evidence to substantiate the reason for refusal. Neither did the Council, on the basis of the submitted material, make vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis.
7. For these reasons, I find that unreasonable behaviour, leading to unnecessary or wasted expense in the appeal process, as described in the PPG, has not been established in this case. Accordingly, this application for costs fails.

G J Fort

INSPECTOR